

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLES E. LOUDON,)	
Petitioner,)	
)	C.A. No. 04-40122-RCL
v.)	
)	
DAVID L. WINN, WARDEN,)	
Respondent.)	

MEMORANDUM AND ORDER

On June 29, 2004, Charles E. Loudon, an inmate at FMC Devens, filed his self-prepared petition titled "Petition for Writ of Mandamus and/or Habeas Corpus, and authority in support thereof, brought pursuant to Title 28, United States Code, Sections 1361, and 2241." For the reasons stated below, the Court (1) grants petitioner forty-two (42) days to either file an Application to Proceed Without Prepayment of Fees or pay the \$5.00 filing fee; and (2) directs the clerk to serve the petition.

DISCUSSION

I. Petitioner Has Not Paid the Requisite
Filing Fee Or Submitted An Application
to Proceed Without Prepayment of the Fees

A party filing a habeas action in this Court must either (1) pay the \$5.00 filing fee for habeas corpus actions or (2) file an application to proceed without prepayment of fees on the form required by this Court entitled "Application to Proceed Without Prepayment of Fees and Affidavit" (the

"Application"). See Fee Schedule for the District of Massachusetts; 28 U.S.C. § 1914(a) (fees); 28 U.S.C. § 1915 (proceedings in forma pauperis).

Petitioner failed to pay the \$5.00 filing fee. In a cover letter accompanying the petition, petitioner states that he is an "indigent individual" and asks the Court to accept the petition in a "forma pauperis" manner. However, petitioner has not filed an Application to Proceed Without Prepayment of Fees accompanied by a certified copy of his prison account statement. Petitioner will be granted forty-two (42) days from the date of this Memorandum and Order, to pay the \$5.00 filing fee or file an Application to Proceed Without Prepayment of Fees and Affidavit. Should such filing fee or application not be filed within 42 days, the petition will be subject to dismissal without prejudice for failure to pay the filing fee.

II. The Clerk Shall Serve the Petition

The Court will direct the Clerk to serve the petition on Warden Winn and the United States Attorney for the District of Massachusetts.

ORDER

ACCORDINGLY, for the reasons stated above,

(1) the petitioner shall, within forty-two (42) days from

the date of this Memorandum and Order, either pay the \$5.00 filing fee or file an Application to Proceed Without Prepayment of Fees accompanied by a certified copy of petitioner's prison account statement. The Clerk shall send petitioner with this Memorandum and Order an Application to Proceed Without Prepayment of Fees.

(2) the Clerk shall serve a copy of this Memorandum and Order and the habeas petition by mailing copies, certified mail, to Warden Winn AND the United States Attorney for the District of Massachusetts.

(3) the Respondent shall, within 20 days of receipt of this Memorandum and Order, file an answer (or other proper responsive pleading) to the Petition for Writ of Habeas Corpus.

SO ORDERED.

Dated at Boston, Massachusetts, this 6th day of July 2004.

/s/ Reginald C. Lindsay
REGINALD C. LINDSAY
UNITED STATES DISTRICT JUDGE